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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE CITY OF PORTLAND,

Defendant.

Case No. 3:12-cv-02265-SI

JOINT STIPULATED MOTION TO
ENTER AMENDED SETTLEMENT
AGREEMENT

Plaintiff United States of America (United States) and Defendant City of Portland (City) (collectively the “Parties”) jointly move this Court for the entry of an order amending the Further Amended Settlement Agreement (Agreement), previously entered in this matter (ECF No. 408). In compliance with the procedures required by paragraph 195 of the Agreement, the Parties propose amendments to Section VIII – Officer Accountability. The proposed amendments maintain the Section VIII principles, standards and requirements of the City related to

investigations into police conduct and officer accountability, while transferring some of those obligations to a new Community Police Oversight Board that will replace the current Independent Police Review and Citizen Review Committee, and which will assume some responsibilities now assigned to the Portland Police Bureau's Internal Affairs Division.¹

Paragraph 184 of the Agreement enables the Parties to “jointly stipulate to make changes, modifications, and amendments to this Agreement, which shall be effective, absent further action by the Court, 45 days after a joint motion has been filed with the Court.” ECF No. 408-1.

Portland voters in November 2020 approved creation of the Community Police Oversight Board² (“Oversight System”), whose mission is “to independently investigate Portland Police Bureau sworn employees and supervisors thereof promptly, fairly, and impartially, to impose discipline as determined appropriate by the Board, and to make recommendations regarding police practices, policies and directives to the Portland Police Bureau and with a primary focus on community concerns.” Portland City Charter Section 2-1001.³ The Oversight System will have a duty to investigate all deaths in custody and police uses of deadly force; all complaints of force that result in injury; complaints of discrimination against a protected class; violations of federal or state constitutional rights; and other complaints and incidents as determined by the Oversight System or mandated by City Code. Portland City Charter 2-1008. The Parties incorporated the establishment of the Oversight System into Section XI – Addendum of Additional Remedies as Paragraph 195. ECF 408-1.

As reported to the Court, and in compliance with the timelines and process set by

¹ The proposed amended Section VIII is attached as Exhibit 1. A redline of Section VIII showing the changes from the current version of Section VIII is attached as Exhibit 2.

² If these Section VIII amendments are adopted, the Community Police Oversight Board as stated in Portland City Charter will be comprised of the Community Board for Police Accountability (“CBPA”) and the Office of Community-Based Police Accountability (“OCPA”). Collectively, they are referred to as the “Oversight System.”

³ The full Portland City Charter Article 10 – Community Police Oversight Board is available at <https://www.portland.gov/charter/2/10>.

Paragraph 195, the Portland City Council on November 15, 2023, approved a resolution proposing both amendments to Section VIII, and a new chapter of Portland City Code to create the Board.⁴ The Council directed the City Attorney's Office to: 1) accept and consider further public comment for a period of 30 days, including at a town hall meeting in December 2023; 2) fulfill the City's bargaining obligations with the Portland Police Association (PPA) and Portland Police Commanding Officers Association, if any; and 3) seek approval from the U.S. Department of Justice (DOJ) for the proposed code package. The City revised the proposed code based on the further public consultation, labor negotiations, and comments from DOJ. The updated code package was posted in clean and redlined versions (to show changes since the Council's November vote) on the City website on June 27, 2024, and again, after a further community forum held July 15, 2024 and other stakeholder feedback.⁵

The Parties ask the Court to enter the stipulated Amended Settlement Agreement Section VIII attached as Exhibit 1 to this motion as an order of the Court. The Parties believe that as amended, Section VIII is a fair, adequate, and reasonable way to allow the City to transition to the new voter-adopted community-led police oversight system while maintaining the important accountability standards and compliance requirements of the current Section VIII. In an executive agency's enforcement action, the Ninth Circuit states that "courts should pay deference to the judgment of the government agency which has negotiated and submitted the proposed judgment," and "[u]nless a consent decree is unfair, inadequate, or unreasonable, it ought to be

⁴ The Council resolution, the proposed Section VIII and City Code chapter, the presentation slides and the written testimony submitted are available here: <https://www.portland.gov/council/documents/resolution/adopted/37637> Video of the Council deliberations and public testimony is available here: <https://www.youtube.com/live/G58tpIQ1fs8?si=0ezSdEIMmb0Fat-C&t=617>

⁵ The Mayor's news release announcing the public posting of the proposed code, and a community forum, is available here: <https://www.portland.gov/wheeler/news/2024/6/27/code-package-implement-community-board-police-accountability-advances-mayors>. The code package is linked from the news release, and available here: [https://portlandor.govqa.us/WEBAPP/_rs/\(S\(skekecdqthp0jheelws2jffj\)\)/BusinessDisplay.aspx?sSessionID=&did=88&cat=0](https://portlandor.govqa.us/WEBAPP/_rs/(S(skekecdqthp0jheelws2jffj))/BusinessDisplay.aspx?sSessionID=&did=88&cat=0)

approved.” *SEC v. Randolph*, 736 F.2d 525, 529 (9th Cir. 1984).

The Parties request that the Court hold a Fairness Hearing within the next 45 days to determine whether the Amended Section VIII is fair, adequate, and reasonable. The Parties and the Monitor, along with Intervenor PPA, enhanced *amicus curiae* Albina Ministerial Alliance Coalition for Justice and Police Reform, and *amicus curiae* Mental Health Alliance are available on Thursday, August 29, 2024, and therefore the Parties and PPA respectfully request the Court schedule it for that day. If the Court approves the amendments, the City will move expeditiously to adopt the final code, appoint the nominating committee to propose candidates for the new Board, and to ensure the new oversight system is staffed and operational within the 12 months provided for in Paragraph 195.

DATED: July 29, 2024

Respectfully submitted,

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